



Practitioner's Docket No. MSU 4.1-406

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Alberto L. Mendoza**

Application No.: **0 9 / 082,112** Group No.: **1645**

Filed: **1998 May 20**

Examiner: **S. Turner**

For: **METHOD AND VACCINE FOR TREATMENT OF PYTHIOSIS INSIDIOSI
IN HUMANS AND LOWER ANIMALS**

Assistant Commissioner for Patents

Washington, D.C. 20231

#8 10/17/99
I. Gray

STATEMENT OF BIOLOGICAL CULTURE DEPOSIT

I, **Ian C. McLeod**

Name of Applicant or Assignee or Assignee's representative

hereby state:

1. That the following culture(s) referred to in the specification of this application have been deposited:

<u>Pythium insidiosum</u> CBS 574.85	<u>74446</u>
Strain (originally labeled H-9)	Accession number
_____ Strain	_____ Accession number
_____ Strain	_____ Accession number
_____ Strain	_____ Accession number

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"
Mailing Label No. _____ (mandatory)

TRANSMISSION

☐ transmitted by facsimile to the Patent and Trademark Office.

Tammi R. Taylor

Signature

Date: **10/05/99**

Tammi L. Taylor

(type or print name of person certifying)

***WARNING:** Each paper or fee filed by Express Mail **must** have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Statement of Biological Culture Deposit [9-25]—page 1 of 3)

2. That the date of the above deposit is:

(check appropriate item below)

- ☐ before the U.S. filing date of this application.
- ☒ after the U.S. filing date of this application and proof that the culture(s) identified above is(are) the same culture(s) described in the application as filed is attached.

3. That the name and address of the depository is:

American Type Culture Collection

Name of depository

10801 University Blvd., Manassas, VA 20110-2209

Address of depository

4. That a statement that the culture(s) deposited with the above named depository was (were) viable and was (were) capable of reproduction, if appropriate, on the date of deposit is attached. Such statement is executed by:

(complete a, b or c below)

- a. ☒ the depository.
- b. ☐ the applicant.
- c. ☐ a competent third party.

WARNING: If the applicant himself or a competent third party makes the statement that the microorganism is viable and is capable of reproduction, if appropriate, then the tests must have been performed on a sample certified to have been (1) received by the depository with the same samples actually deposited and (2) promptly returned to applicant.

5. That, with respect to the permanence of the culture(s) deposit:

(complete a, b, or c)

- a. ☒ the depository is an official depository, in accordance with the Budapest Treaty for the above deposited culture(s).
- b. ☒ the depository affords permanence of the deposit for at least 30 years or at least 5 years after the most recent storage request, whichever is longest.
- c. ☒ evidence that permanent availability of the microorganism is assured is provided in the form of the attached copy of the contract with the above-mentioned depository with respect to the deposited culture(s).

I state that should the microorganism(s) mutate, become nonviable or be inadvertently destroyed, applicants will replace such microorganism(s) for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, whichever period is longer.

6. That, with respect to availability of the culture(s), I state that the deposit has been made under conditions of assurance of (a) ready accessibility thereto by the public if a patent is granted whereby all restrictions to the availability to the public of the culture so deposited will be irrevocably removed upon the granting of the patent (M.P.E.P. § 608.01(p)), and (b) access to the culture will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

- ☒ Evidence of the accessibility of the culture(s) as set forth above is provided in the form of the attached copy of the contract with the above mentioned depository with respect to the deposited cultures.

Ian C. McLeod (Reg. No. 20,931)
(type or print name of person signing)

October 5, 1999
Date

2190 Commons Parkway
Okemos, MI 48864
P.O. address of Signatory


Signature

- ☐ Inventor
☐ Assignee of complete interest
☐ Person authorized to sign on behalf of assignee
☒ Attorney of Record
(complete the following, if applicable)

(type name of assignee)

Address of assignee

Title of person authorized to sign on behalf of assignee: _____

Assignment recorded in PTO on _____

Reel _____ Frame _____

A "STATEMENT UNDER 37 C.F.R. § 3.73(b)" is attached.

ATCC



10801 University Blvd Manassas, VA 20110-2209 Telephone: 703-365-2700 FAX: 703-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Michigan State University, Medical Technology Program
Attn: Alberto Leonel Mendoza
322 N. Kedzie Lab
East Lansing, MI 48824-1031

Deposited on Behalf of: Michigan State University

Identification Reference by Depositor:

ATCC Designation

Pythium insidiosum CBS 574.85 (originally labelled H-9)

74446

The deposit was accompanied by: a scientific description X a proposed taxonomic description indicated above.
The deposit was received June 1, 1998 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

X We will not inform you of requests for the strain.

X The strain is available to the scientific public upon request as of June 1, 1998.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested July 15, 1998. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey
Barbara M. Hailey, Administrator, Patent Depository

Date: July 20, 1998

cc: Ian C. McLeod (Ref. Docket MSU 4.1-356)